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MEMO ENDORSED

August 7, 2009

Re: Wong et al. v. HSBC USA, Inc. et al., No. 09-cv-06841 (LTS) (AJP) (S.D.N.Y.)

Dear Judge Swain:

This firm represents HSBC USA, Inc., HSBC Bank plc, HSBC Bank (Cayman) Limited, HSBC Holdings plc, Pacific International Finance Limited, Scott Aitken, Cereita Lawrence, Sarah Craven (née Coombs), Janet Crawshaw, and Sylvia Lewis in the above-captioned action, which plaintiffs filed as an Adversary Proceeding in the Lehman Brothers bankruptcy matter. *In re Lehman Brothers Holdings Inc., et al.*, No. 08-13555-JMP (Bankr. S.D.N.Y.), *Wong et al. v. HSBC USA, Inc. et al.*, Adv. Proc. No. 09-01120-JMP (Bankr. S.D.N.Y.). With the concurrence of all Defendants, we write to ask the Court to defer briefing and consideration of plaintiffs' newly-filed Motion To Withdraw Reference of Adversary Proceeding To The Bankruptcy Court ("Plaintiffs' Motion") until after the hearing and resolution of Defendants' dispositive motions to dismiss the Adversary Proceeding on the merits.

The motions to dismiss address fatal jurisdictional and standing deficiencies in the purported class action complaint. Their disposition could moot the Motion pending before Your Honor and result in cost savings to the bankruptcy estate. Briefing of these motions is proceeding before Judge Peck pursuant to a schedule that plaintiffs proposed, and Judge Peck has scheduled oral argument for September 24, 2009.

The Adversary Complaint, filed on March 12, 2009, alleges that jurisdiction lies in the Bankruptcy Court pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157(b). (Cpt. ¶¶ 15, 17). Plaintiffs served Defendants LBSF and HSBC Bank USA in March, and those Defendants moved to dismiss the complaint on May 27, 2009. Thereafter, plaintiffs served the Adversary Complaint on several other Defendants and proposed a consolidated briefing schedule for motions to dismiss running through September 15, 2009. When plaintiffs appeared at the initial pre-trial conference before Judge Peck on July 15 they raised no objection to the reference to Bankruptcy Court and made no suggestion that their affirmative selection of that forum was inappropriate. As recently as July 28, in

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an email sent by counsel for plaintiffs to the parties, plaintiffs agreed to adjournment of the hearing date from September 23 to September 24, again without raising any concerns about the Bankruptcy Court's jurisdiction. It was only after the grounds that require dismissal of all claims had been briefed, and Judge Peck had demonstrated considerable familiarity with the underlying issues, *see* Order Denying Motion to Intervene in Adversary Proceeding No. 09-01242-JMP dated July 22, 2009 (Dkt. 33), that plaintiffs asserted for the first time that their claims lie outside the Bankruptcy Court jurisdiction that their pleadings invoke.

In the interests of judicial economy and proper case management, and to avoid wasteful duplication of effort, Defendants respectfully request that the Court adjourn briefing and consideration of Plaintiffs' Motion until the Bankruptcy Court has ruled on the comprehensive motions to dismiss that are currently pending. We have, pursuant to Your Honor's Individual Practice Rule 1.A, requested that counsel for the purported class agree to this procedure, but counsel for plaintiffs rejected our August 6, 2009 request. If the Court is not inclined to grant this adjournment, we respectfully request that the Court convene a conference to discuss a briefing schedule for Plaintiffs' Motion and that Defendants' responses, which would otherwise be due in a week, be postponed in the meantime.

Respectfully submitted,


Howard G. Sloane

The Honorable Laura T. Swain
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

VIA FAXSIMILE

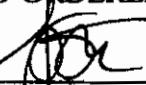
cc: The Honorable James M. Peck
United States Bankruptcy Court
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The request to suspend briefing of the Motion to withdraw the reference is denied. Defendants' opposition papers must be served and filed (with a courtesy copy to chambers) by August 28, 2009. Reply papers must be served and filed (with a courtesy copy to chambers) by September 14, 2009. Proceedings in the Bankruptcy Court are not stayed.

SO ORDERED.

NEW YORK, NY


LAURA TAYLOR SWAIN
Aug 11, 2009 UNITED STATES DISTRICT JUDGE